

Practitioner's Docket No. 003252-052911

1636
eta
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Ulrich Noth et al.
Application No.: 10/082,705 Group No.: 1636
Filed: February 25, 2002 Examiner: Maria Marvich
For: TRABECULAR BONE-DERIVED HUMAN MESENCHYMAL STEM
CELLS

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. § 1.8(a) and 1.10)

I hereby certify that this correspondence:

1. Transmittal Form (1 pg.);
2. Reply to Notice of Non-Compliant Amendment (2 pp.);
3. Attachment 1 – Copy of Notice of Non-Compliant Amendment (3 pp.);
4. Attachment 2 – Corrected Claims Set (3 pp.);
5. Return Receipt Postcard;

is on the date shown below being:

MAILING

X deposited with the United States Postal Service
with sufficient postage as first class mail in an
envelope addressed to MAIL STOP
AMENDMENT, Commissioner for
Patents, P.O. Box 1450, Alexandria, VA
22313-1450

Date: February 28, 2005

FACSIMILE

transmitted by facsimile to the Patent
and Trademark Office.


Signature


Nicole M. Aguirre
(type or print name of person certifying)

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

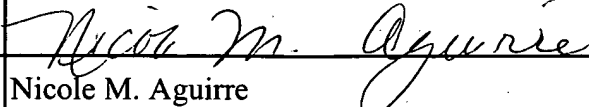
O I P E TRANSMITTAL FORM MAR 02 2005 (to be used for all correspondence after initial filing)	Application Number	10/082,705
	Filing Date	February 25, 2002
	First Named Inventor	Ulrich Noth
	Art Unit	1636
	Examiner Name	Maria Marvich
Number of Pages in This Submission	Attorney Docket Number	003252-052911

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	Attachment 1 - Copy of Notice of Non-Compliant Amendment; Attachment 2 - Corrected Claims Set; Certificate of Mailing; and Return Receipt Postcard
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	<input type="checkbox"/> Remarks	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	The Commissioner is authorized to charge fee deficiencies or credit overpayments to the NIXON PEABODY LLP Deposit Account No. 50-0850.	

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	NIXON PEABODY LLP, 100 Summer Street, Boston, MA 02110-2131		
Signature			
Printed name	David S. Resnick		
Date	2/28/05	Reg. No.	34,235

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name	Nicole M. Aguirre	Date	2/28/05

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

COPY

RECEIVED
MAR 02 2005
UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,705	02/25/2002	Ulrich Noth	NOT01-NP-002	5327

7590 01/28/2005
David S. Resnick
NIXON PEABODY LLP
100 Summer Street
Boston, MA 02110

RECEIVED
JAN 31 2005
NIXON PEABODY LLP

EXAMINER	
MARVICH, MARIA	
ART UNIT	PAPER NUMBER
1636	
DATE MAILED: 01/28/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

COPY

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
---------------------------------	-------------	---	---------------------

EXAMINER

ART UNIT	PAPER
----------	-------

105

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Notice of Non-Responsive Amendment

The communication filed on 11/10/04 is not fully responsive to the Office communication mailed on 5/6/04. It has failed to meet the requirements of 37 CFR 1.121 as amended on June 30, 2003. Specifically, the status identifier for claim 5 indicates that it is currently amended however, added and deleted matter is not indicated by strike-through and underlining. Furthermore, in each of the claims 2-10, 12-14 and 21-22, claim has been amended from Claim. However, the amended matter is not indicated as amended by strike-through and underlining.

Applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to submit an amendment in compliance with 37 CFR 1.121, effective, March 21, 2001, in order to avoid abandonment.

EXTENSIONS OF THIS TIME MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maria B Marvich, PhD whose telephone number is 571-272-0774. The examiner can normally be reached on M-F (6:30-3:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Remy Yucel, PhD can be reached on 571-272-0781. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 305-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3291.

Maria B Marvich,
PhD Examiner Art
Unit 1636
Remson 2B84
571-272-0774


GERRY LEFFERS
PRIMARY EXAMINER



UNITED STATES PATENT AND TRADEMARK OFFICE

COPY

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No.

Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on _____ is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following omission(s) or provision is required. Only the section (1.121(b)) of the amendment document containing the omission or non-compliant provision must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted.

THE FOLLOWING CHECKED (X) ELEMENTS(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
 - ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____
- ☐ 2. Abstract:
 - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____
- ☐ 3. Amendments to the drawings: _____
- ☒ 4. Amendments to the claims:
 - ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all claims (incl. withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. *claims*
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: *2-10, 12-14, 21-22 claims amended no change indicated*

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given **ONE MONTH** from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this **ONE MONTH** time limit is not extendable.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION**, and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a **TIME PERIOD** of **ONE MONTH** from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

Gerry Leffers
GERRY LEFFERS
PRIMARY EXAMINER